

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)
)
)
v) 02: 08-cr-0312
)
) 02: 09-cv-0493
HAROLD D. PRICE)

MEMORANDUM ORDER

By Memorandum Order of July 17, 2009, the Court ordered Harold D. Price, Petitioner, pursuant to *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999), to advise this Court on or before September 3, 2009, as to his choice from the following three options:

- (1) have his motion ruled upon as filed;
- (2) if his motion is not styled as a § 2255 motion, have his motion recharacterized as a § 2255 motion and heard as such, but lose his ability to file successive petitions absent certification by the court of appeals; or
- (3) withdraw his motion, and file one all-inclusive § 2255 petition within the one-year statutory period.

On July 27, 2009, the Court received a letter from Harold D. Price in which he advises that he wishes to withdraw his previously filed § 2255 petition and file one all-inclusive § 2255 petition within the one-year statutory period. The Court will deem the July 27, 2009, correspondence as a Motion to Withdraw and **GRANT** Defendant's request to withdraw his § 2255 petition.

Defendant also requests that the Court forward to him the "actual deadline for the instant § 2255 according to the AEDPA, due to the uncertainty as the granted extensions that was afforded counsel to file a notice of appeal in the instant case." Defendant is advised to

review Title 28, United States Code, section 2255(f), which provides the framework for determining the one-year period of limitation. Defendant was sentenced by this Court on March 12, 2009, and his Conviction of Judgment was filed that same day. By Order of Court dated March 18, 2009, Defendant's motion to enlarge time for filing notice of appeal was granted and pursuant to Rule 4(b)(4) of the Federal Rules of Appellate Procedure, Defendant was granted an extension until April 27, 2009, to file a notice of appeal from the judgment in this case. No appeal was filed. If Defendant has questions regarding the calculation of the one-year period of limitation, he should consult legal counsel.

So **ORDERED** this 29th day of July, 2009.

BY THE COURT:

s/Terrence F. McVerry
United States District Court

cc: Troy Rivetti,
Assistant U.S. Attorney
Email: Troy.Rivetti@usdoj.gov

Harold D. Price,
Register # 09580-068
FCI McKean
Federal Correctional Institution
P. O. Box 8000
Bradford, PA 16701